

**ARKANSAS PROFESSIONAL BAIL BOND COMPANY AND PROFESSIONAL
BAIL BONDSMAN LICENSING BOARD
January 12, 2007**

Chairman Smith called the meeting to order at 9:02 a.m.

Roll call was taken. The following members were present: Don Smith, Frank Sturgeon, Marc Oudin, Eugene Reynolds, Phyllis Carruth, and Curt Clark. Lynn Williams was absent. Also present were board counsel, Assistant Attorney General Nancy Pryor; Executive Director, Tommy Reed; Board staff, and members of the audience.

Following a review of the Board Minutes for December 8, 2006, Mr. Oudin moved to approve the minutes as presented. Mr. Sturgeon seconded. The motion carried.

Mr. Reed requested, and was granted leave to depart from the order of the agenda and presented a proposed Consent Agreement in the matter of APBBLB v. Calvin T. Jones, APBBLB #06-057, for consideration. After discussion, Mr. Oudin moved to approve the Consent Order. Mr. Reynolds seconded. The Chair called for further discussion. There was no further discussion or comments and the motion was put to a voice vote. The motion carried and the Board turned to old business.

OLD BUSINESS

Transfers/Suspensions/Reinstatements:

A report was provided for information purposes: No transfer requests were submitted during the month. There were seven (7) agent suspensions pursuant to notice of termination /resignation from companies.

Forfeitures - Open:

The Open Forfeiture Report was presented for review. The chair invited comment or discussion. Mr. Oudin inquired regarding a \$500,000 judgment against Manuel Bail Bonds. Mr. Reed advised he had received correspondence indicating an agreement had been reached between Manuel and Crittenden County authorities to settle this judgment and others, some of which had not been presented to the Board. The agreement concerned \$1,435,000 in judgments, of which \$765,000 was considered by Crittenden County to be uncollectible, leaving \$670,000 in judgments to be settled for the sum of \$100,000 paid by Manuel. Mr. Reed noted the Board had judgments totaling over \$100,000 against Manuel from other counties that were not subject to the agreement.

Mr. Sturgeon moved to suspend those licensees whose forfeitures were not timely paid between January 12, 2007 and the February 9, 2007 regular board meeting. Ms. Carruth seconded. The motion carried by voice vote.

Past Due Forfeitures:

The Past Due Forfeiture Report was presented for review. The Chair invited comment or discussion. There was no discussion.

1 **Attorney General Opinion 2006-173:**

2 The Board discussed Attorney General Opinion 2006-173 that concluded, in regard to the first
3 question presented, that a company license could not be continued if a change of ownership
4 resulted in there being no owner who had been licensed as a bondsman in two of the three
5 preceding years as required by Ark. Code Ann. §17-19-202(c)(1)(B).
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7 The opinion further concluded there is no clear answer to the second question presented, as to
8 whether a change in ownership or corporate structure of a company licensed prior to July 1, 1989,
9 and whose security deposit is less than \$100,000 as required by current statute, would result in a
10 new license that would require compliance with current deposit requirements. The opinion
11 suggested legislative clarification is needed.
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13 Mr. Reed noted that, unlike a sole-proprietorship or partnership, a corporation has an existence
14 separate from the stockholders, and that it was his opinion that a license issued to a corporation
15 would not terminate upon a stock purchase or sale, assuming all other licensing requirements
16 were met. Mr. Clark asked about board practice with such issues in the past. Mr. Oudin noted the
17 license of A. Jeffries Bonding Company, a sole-proprietorship, was terminated upon the death of
18 Mr. Jeffries. After discussion, the board proceeded.
19

20 **Change of Ownership:**

- 21 1. **Z-Zoom, Inc.** - Catherine Boyd, President of Z-Zoom, Inc., was present with
22 counsel, Rex Earl Starr, who recounted the circumstances leading to the company's
23 appearance before the Board and the actions taken after the purchase of Faye
24 Nation's stock, which precipitated the request for the Attorney General opinion. Mr.
25 Starr provided an "Amended Buy/Sell Agreement" that reflected Ms. Nation owns
26 one share of Z-Zoom, Inc., thus satisfying the requirement of Ark. Code Ann. §17-
27 19-202(c)(1)(B).
28

29 After discussion, the Chair opened the floor for motions. Mr. Sturgeon moved that Z-
30 Zoom's license be continued; second by Mr. Oudin. There was no further discussion
31 and the matter was put to voice vote. Motion carried.
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33 Ms. Pryor noted that, because the matter had been referred for an Attorney General's
34 opinion, the period of time Z-Zoom, Inc. was out of compliance would not set a
35 precedent to allow other companies a similar opportunity to cure lack of compliance
36 with licensing statutes.
37

- 38 2. **Spencer Bonding Services, Inc.** – Rick Holley, President of Spencer Bonding
39 Services, Inc. was present without counsel. Mr. Reed noted the question was whether
40 the license of a corporation lapsed upon the sale, purchase, or transfer of stock of the
41 company. He noted examples where the Board had not considered that to be the case.
42 After discussion, the floor was opened for motions. Mr. Clark moved to approve the
43 stock purchase and continue the license of Spencer Bonding; second was by Mr.
44 Sturgeon. The motion carried
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46 **2007 Renewals – Financial Statements**

47 The Executive Director noted that in December 2005, the Board decided to disallow use of fair
48 market value of assets on financial statements submitted for the purpose of calculating unsecured
49 liability limits and require that assets be listed at purchase cost. He noted that this had
50 inordinately impacted some companies, primarily sole proprietorships; therefore, he requested the

1 Board consider a return to the use of fair market value of assets supported by a current appraisal
2 (within 3 years) performed by a qualified, accredited appraiser.

3
4 He advised that for the 2007 renewals he had requested that companies submit financial
5 statements that included both fair market value and cost. After discussion, the floor was opened
6 for motions. Mr. Oudin moved to allow use of fair market value (supported by current appraisal
7 performed by qualified appraiser) in financial statements submitted for calculation of unsecured
8 liability limits; second by Mr. Reynolds. The Chair called for discussion. Hearing no further
9 discussion the motion was put to a voice vote. Motion approved.

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11 Ron Marshall, owner of Affordable Bail Bonds, Inc., was recognized and asked for what purpose
12 the financial statements were submitted if the assets were not pledged and available to the Board
13 upon failure of a company. Mr. Reed advised that the Board had authority to proceed against such
14 assets but, to his knowledge, had never done so. Mr. Oudin inquired what prompted the question;
15 Mr. Marshall responded that a lot of time and effort had been invested in this subject and that it
16 seemed to be for nothing since the Board had never pursued assets of a defunct company. A
17 discussion ensued. In addition to Mr. Marshall, Tom Nickolich of Exit Bail Bonds, Inc., and Gary
18 Edwards of J.E. Bonding, Inc. spoke regarding the issue.

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20 **Review of Proposed Legislation:**

21 The Board was provided a memo from the executive director stating his recommendations
22 regarding four proposals included in the proposed legislation. There was considerable discussion
23 between the Board, the Executive Director, and members of the audience regarding his
24 recommendations. Mr. Oudin and others noted frustration that he had waited this late to state his
25 opposition.

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27 Mr. Reed noted the Board had postponed consideration of the proposal to the January meeting
28 because the parties were not in agreement regarding a formula to calculate total liability allowed.
29 He noted no agreement had been reached; therefore, he felt obligated to state his recommendation
30 regarding Board approval of these issues.

31
32 Tom Nickolich was recognized and commented on the process by which the parties had sought
33 agreement; he asked the Board to approve the proposal as written and prohibit the Executive
34 Director from speaking against the proposal at the legislature. He noted he intended to go forward
35 with the proposal whether the Board supported it or not.

36
37 Gary Edwards was recognized and spoke on behalf of the bail association and as a company
38 owner. He stressed the importance of the industry to him and others and urged the Board to help
39 effect positive change. Board member, Curt Clark, expressed concern that the proposed change
40 would be detrimental to small companies and urged caution in changing a system without
41 understanding the impact of the change.

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43 After further discussion, the Board decided to allow two weeks for the executive director, the
44 Professional Bail Bond Association, and the drafters of the proposal to try to come to agreement
45 on a formula to determine total liability limits under the current proposal. It was agreed a special
46 board meeting would be held Friday, January 24, 2007, at which time the Board would consider
47 approval of the proposal. Ms. Pryor reminded the board they were not to communicate with each
48 other for the purpose of deciding board business other than during called public meetings.

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NEW BUSINESS

December Vouchers Paid

A report of vouchers paid in December, 2006 was provided for information purposes. Chairman Smith invited questions or discussion. There was no comment, question, or discussion and the Board proceeded.

License Approvals

Seven (7) bondsman applications were submitted for approval and one (1) application was submitted for tentative approval pending receipt and approval of necessary documentation. Mr. Sturgeon moved to approve the applications, including tentative applications. Mr. Clark seconded. The Chair called for discussion or comments; hearing none, the motion was put to a vote. The motion carried with none opposed

Stipend & Expense Reimbursement, & Statement of Financial Interest:

Ark. Code Ann. §§25-16-902 & 904 require that the Board vote at the first meeting of each calendar year whether to authorize receipt of stipend and travel reimbursements provided according to statute. After discussion, the Chair called for motions. A motion that the Board continue to receive the stipend and expense reimbursements provide by statute was made by Mr. Sturgeon. Ms. Carruth seconded. The Chair invited questions or discussion. There being none, the motion was put to a voice vote. The motion carried with none opposed.

Mr. Reed reminded the Board of their duty to file a statement of financial interest with the Secretary of State prior to January 31 of each year, and advised he had blank forms if needed.

First Step Bail Bonds Company, Inc. – New company application:

A completed application for First Step Bail Bonds Company, Inc., with required supporting documentation, was provided for Board consideration and approval. Ricky McKinney, Vice-President, was present. Mr. Reed advised that everything appeared to be in order. The Chair called for motions. Mr. Oudin moved to approve the application. Mr. Reynolds seconded. The motion carried on voice vote.

Public Comments:

The Chairman opened the floor for public comments. Ron Marshall, Affordable Bail Bonds, was recognized and stated his opinion that the current system was not broken or flawed and what was needed was audits to ensure that secured bonds were actually secured and that unsecured bonds were reported accurately. He spoke in favor of transferring the fees paid to the Insurance Department to the Board. Mr. Oudin encouraged Mr. Marshall to attend association meetings. Ms. Carruth asked how many companies were members of the association. Mr. Clark reported there were currently eight (8) paid members in the association. It was noted there was approximately forty (40) members last year; that it was early in the re-licensing period; and that more members were expected.

There were no further comments or discussion. The Chairman then turned the meeting over to the hearing officer for the purpose of conducting scheduled hearings. Upon the conclusion of the hearings, the floor was returned to the Chairman and the meeting was adjourned.

Submitted for approval: This 12th day of January, 2007, _____
Chairman Don Smith